

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #8	CCRB Case #: 201708435	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/11/2017 9:57 PM	Location of Incident: [REDACTED]	Precinct: 77	18 Mo. SOL 4/11/2019	EO SOL 4/11/2019	
Date/Time CV Reported Thu, 10/12/2017 10:43 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 10/12/2017 10:43 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Krystopher Valentin	06350	960044	077 PCT
2. POM Craig Mcgrath	26900	955165	077 PCT
3. POM Brian Feeley	02768	944550	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Avinash Patel	05322	940551	077 PCT
2. POM Raymond Williams	17836	916918	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Krystopher Valentin	Abuse: Police Officer Krystopher Valentin stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
B.POM Craig Mcgrath	Abuse: Police Officer Craig Mcgrath stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
C.POM Brian Feeley	Abuse: Police Officer Brian Feeley stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
D.POM Krystopher Valentin	Abuse: Police Officer Krystopher Valentin threatened to arrest § 87(2)(b)	[REDACTED]
E.POM Krystopher Valentin	Abuse: Police Officer Krystopher Valentin refused to provide his name and shield number to § 87(2)(b)	[REDACTED]
F.POM Krystopher Valentin	Discourtesy: Police Officer Krystopher Valentin acted discourteously toward § 87(2)(b)	[REDACTED]
G.POM Krystopher Valentin	Abuse: Police Officer Krystopher Valentin frisked § 87(2)(b)	[REDACTED]
H.POM Krystopher Valentin	Abuse: Police Officer Krystopher Valentin searched § 87(2)(b)	[REDACTED]
I.POM Craig Mcgrath	Abuse: Police Officer Craig McGrath searched § 87(2)(b)	[REDACTED]
J.POM Krystopher Valentin	Abuse: Police Officer Krystopher Valentin searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
K.POM Craig Mcgrath	Abuse: Police Officer Craig McGrath searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
L.POM Craig Mcgrath	Discourtesy: Police Officer Craig McGrath spoke discourteously to § 87(2)(b)	[REDACTED]

Case Summary

On October 12, 2017, § 87(2)(b) filed the following complaint on the CCRB website.

On October 11, 2017, at approximately 9:57 p.m., § 87(2)(b) was driving south on Nostrand Avenue toward Bergen Street in Brooklyn. He was working as an § 87(2)(b) driver and was going to a restaurant at § 87(2)(b) to pick up an order. Police Officer Krystopher Valentin, Police Officer Craig McGrath, and Police Officer Brian Feely, all of the 77th Precinct, stopped § 87(2)(b)'s vehicle (**Allegations A-C: Abuse of Authority**, § 87(2)(g)). PO Valentin allegedly threatened to arrest § 87(2)(b) multiple times during the incident (**Allegation D: Abuse of Authority**, § 87(2)(g)). PO Valentin allegedly refused to provide his name and shield number to § 87(2)(b) multiple times during the incident (**Allegation E: Abuse of Authority**, § 87(2)(g)). PO Valentin allegedly knocked § 87(2)(b)'s cellphone out of his hand (**Allegation F: Discourtesy**, § 87(2)(g)). PO Valentin frisked and searched § 87(2)(b) (**Allegations G-H: Abuse of Authority**, § 87(2)(g)). PO McGrath also allegedly searched § 87(2)(b) (**Allegation I: Abuse of Authority**, § 87(2)(g)). PO Valentin and PO McGrath searched inside § 87(2)(b)'s vehicle (**Allegations J-K: Abuse of Authority**, § 87(2)(g)). PO McGrath allegedly said, "We don't give a fuck," to § 87(2)(b) (**Allegation L: Discourtesy**, § 87(2)(g)).

The investigation did not obtain any video evidence in this case.

Findings and Recommendations

- **Allegation (A) Abuse of Authority: Police Officer Krystopher Valentin stopped the vehicle in which § 87(2)(b) was an occupant.**
Allegation (B) Abuse of Authority: Police Officer Craig McGrath stopped the vehicle in which § 87(2)(b) was an occupant.
Allegation (C) Abuse of Authority: Police Officer Brian Feeley stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) provided a brief written statement, a more detailed telephone statement, and an in-person statement at the CCRB (BR01; BR02; BR03). In all his statements, he maintained that he had pulled over of his own volition § 87(2)(b) as he intended to pick up food there. In his phone statement and in-person interview, § 87(2)(b) recounted that he had already stepped out of his vehicle when he realized that the officers' unmarked vehicle had pulled up behind his vehicle. The RMP had its emergency lights activated. § 87(2)(b) denied that he was aware at any point that officers were attempting to stop his vehicle. The officers were already exiting their vehicle, and they instructed § 87(2)(b) to get back inside his vehicle. § 87(2)(b) complied and sat in the driver's seat as the officers reached his vehicle.

§ 87(2)(b) recounted that the officers eventually claimed that he had failed to signal and that one of his brake lights was not functional. PO Valentin ultimately issued summonses for those two infractions (BR04). In his online complaint, § 87(2)(b) implied that the officers' claims were false, and that the officers issued him summonses to "cover it up" after their search of his vehicle failed to turn up any contraband. In his phone statement, § 87(2)(b) specified that an officer told him that he had failed to signal when he pulled over to the curb in front of the restaurant. He also thought that an officer had specified that his left brake light was not functional. During his in-person statement, § 87(2)(b) recounted that, after the officers allowed him to get back into his vehicle, PO Feeley instructed him to press his brake pedal. § 87(2)(b) complied, and PO Feeley told him that the brake light on the left side of his vehicle was not working. PO Feeley asked § 87(2)(b)

§ 87(2)(b) if he wanted to exit the vehicle to confirm personally that his brake light was not functional, but § 87(2)(b) declined.

After the incident ended, § 87(2)(b) picked up the food from the restaurant and delivered it. He may have made an additional delivery after that, and eventually he went to the 81st Precinct stationhouse. He met an officer there who inspected his vehicle, personally verified that his brake lights were functional, and completed a form stating as much. § 87(2)(b) provided a photograph of this form (BR05), which shows that it was completed by PO Raymond Williams of the 81st Precinct at approximately 11:57 p.m. on the night of the incident.

PO Valentin was interviewed at the CCRB approximately two months after the incident (BR06). He recounted that he was driving the unmarked RMP at the time of the incident, and that he was following § 87(2)(b)'s vehicle southbound on Nostrand Avenue. He was certain that PO McGrath was the only other officer in the vehicle at the time, a claim which was shown to be incorrect by the investigation. PO Valentin saw § 87(2)(b)'s vehicle move from the center lane to the left lane without signaling. At some point, § 87(2)(b)'s vehicle braked, and PO Valentin saw that the brake light in the left taillight was not functional.

PO Valentin denied that § 87(2)(b) had already stopped his vehicle of his own accord at the time of the stop. He insisted that he activated the RMP's emergency lights to stop § 87(2)(b)'s vehicle. PO Valentin recounted that, once § 87(2)(b) and his vehicle were searched and after he re-entered his vehicle, the officers instructed him to press his brake pedal so they could confirm that his brake light was not functional. PO Valentin denied that § 87(2)(b) made any statements regarding whether he knew or acknowledged that his brake light was not functional.

The investigation obtained the hand-written and computerized versions of the summonses PO Valentin issued to § 87(2)(b) (BR04).

PO McGrath was interviewed at the CCRB approximately three months after the incident (BR07). He recounted that he was seated in the backseat of the vehicle at the time of the stop, and that PO Feeley was seated in the front passenger seat. Because PO McGrath was in the backseat, he did not personally witness any of the traffic infractions which led to the stop. He did not believe that § 87(2)(b) pulled over without the prompting of the RMP's emergency lights.

PO McGrath claimed to have little recollection of the incident, and said that he actually looked up the summonses prior to his CCRB interview to refresh his recollection. Even so, at the interview he could only recall that one of the summonses was issued for failure to signal. PO McGrath's recollection was not refreshed upon being informed that the second summons was issued for an inoperative brake light. He did not recall officers directing § 87(2)(b) to test his brake lights during the stop.

PO Feeley was interviewed at the CCRB approximately four months after the incident (BR08). He could not recall which seat he occupied in the RMP at the time of the stop, and he could not even recall if he was driving at the time. At the time of the CCRB interview, PO Feeley could not recall why § 87(2)(b)'s vehicle was stopped, and while he knew that PO Valentin ultimately issued two summonses, he could not recall for which infractions the summonses were issued. He did not become aware of § 87(2)(b)'s vehicle until PO Valentin said something to the effect of, "Stop the car. Pull over the car," or "Let's pull it over." PO Feeley did not recall ever personally observing § 87(2)(b)'s vehicle commit any traffic infractions, and he did not recall there being any conversation amongst the officers about the infractions which had been observed. PO Feeley had no recollection of officers instructing § 87(2)(b) to test his brake lights.

Sgt. Avinash Patel was the Anticrime supervisor at the time of the incident, and he responded to the scene after receiving a 911 job for the location (BR09). He was interviewed at the CCRB

approximately three months after the incident. He recounted that § 87(2)(b) had already re-entered his vehicle by the time he arrived on scene. Sgt. Patel spoke to § 87(2)(b) briefly before asking PO Valentin why § 87(2)(b) had been stopped. PO Valentin told Sgt. Patel that § 87(2)(b) had failed to signal while changing lanes and that his brake light was not functional. Sgt. Patel could not recall which brake light was supposedly inoperative. Sgt. Patel then spoke to § 87(2)(b) again, and told him that he was free to contest the summonses in court if he felt they were issued incorrectly.

Sgt. Patel also asked § 87(2)(b) if he wanted to exit his vehicle to see for himself that his brake light was not functional. Sgt. Patel intended to have someone press the brake pedal once § 87(2)(b) exited the vehicle. However, § 87(2)(b) refused to exit his vehicle. Sgt. Patel admitted, however, that he did not actually personally see whether any of § 87(2)(b)'s brake lights were inoperative; he simply trusted PO Valentin's claim. While Sgt. Patel was on scene, no officer ever directed § 87(2)(b) to press his brake pedal so as to confirm that the brake light was inoperative.

PO Williams was interviewed at the CCRB approximately five months after the incident (BR10). He recalled his interaction with § 87(2)(b) on the night of the incident, and confirmed that he completed the form attesting to the fact that his vehicle's brake lights were functional. PO Williams confirmed that he personally inspected § 87(2)(b)'s vehicle. He instructed § 87(2)(b) to press the brake pedal, and he saw that the brake lights located within the taillights were both illuminated.

NYS DMV records indicate that the summons for the inoperative brake light was dismissed on § 87(2)(b) (BR11). The summons for failure to signal was dismissed on § 87(2)(b) (BR11). The documentation appears to indicate that the failure to signal summons was dismissed because the officer failed to appear.

The investigation obtained the audio recording of the call § 87(2)(b) made to 911 during the incident (BR12; BR13). § 87(2)(b) had re-entered his vehicle before making the call, and he told the operator that he wanted to report an "illegal search." At one point during the recording, a voice in the distance seems to tell § 87(2)(b) to "hit the brakes." § 87(2)(b) replies, "You see the brake, right?" Nothing further can be heard regarding the issue of § 87(2)(b)'s brake light.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- **Allegation (D) Abuse of Authority: Police Officer Krystopher Valentin threatened to arrest**

§ 87(2)(b)

§ 87(2)(b) did not allege in his online complaint that any officer ever threatened to arrest him. In his phone statement, he recounted that PO Valentin approached him while the driver's door was still open. PO Valentin requested his license and other paperwork, and § 87(2)(b) complied. PO Valentin asked him if he had "something" on him, and § 87(2)(b) refused to answer. PO Valentin told him the officers had to "check" his car, and instructed him to exit the vehicle. § 87(2)(b) refused and told PO Valentin that he had no right to order him to do so. PO Valentin told § 87(2)(b) that he was going to "make it complicated" for himself, and also told him, "You will get yourself arrested." PO Valentin also told § 87(2)(b) that he was making him nervous, and when § 87(2)(b) asked why, PO Valentin replied, "Because you wanna get yourself arrested."

In his in-person statement, § 87(2)(b) added that, after PO Valentin pulled him out of his car, PO Valentin again told him he would "make it complicated" for himself and that he would get himself locked up.

PO Valentin denied that he ever threatened to arrest § 87(2)(b). He specifically denied that he ever asked § 87(2)(b) if he had "something" on him or that he ever told him he was going to "make it complicated" for himself. PO Valentin did ask § 87(2)(b) if he had any marijuana in his vehicle, and if he had any weapons in the vehicle. PO Valentin's account of this portion of the incident will be described in greater detail in later Allegation sections.

PO McGrath went to the front passenger window during the stop. He could not hear any of PO Valentin's discussion with § 87(2)(b). He never heard PO Valentin tell § 87(2)(b) that he was going to get locked up.

PO Feeley followed PO Valentin to the driver's side upon approach, and he stood near the rear driver's side window while PO Valentin spoke to § 87(2)(b). He could not hear any of PO Valentin's conversation with § 87(2)(b). He was not paying attention to the conversation, and he shined his flashlight into the vehicle before turning around to face the street and ensure that no one approached the officers from behind. PO Feeley denied hearing PO Valentin tell § 87(2)(b) that he was going to "make it complicated" for himself or that he was going to get himself arrested.

§ 87(2)(b), § 87(2)(g)

- **Allegation (E) Abuse of Authority: Police Officer Krystopher Valentin refused to provide his name and shield number to § 87(2)(b)**

In his online complaint, § 87(2)(b) noted that he asked “them” for their badge number and they refused to give him any information. In his phone statement, § 87(2)(b) elaborated that, when PO Valentin ordered him to exit the vehicle, he told PO Valentin that he would have to provide his name and “ID number” if he wanted to search the vehicle. PO Valentin did not reply, and instead pulled § 87(2)(b) out of the vehicle.

In his in-person statement, § 87(2)(b) reiterated that he initially told PO Valentin that he would have to provide his name and “ID number” or “badge number” if he wanted to search the vehicle. § 87(2)(b) now added that he asked PO Valentin for his name and shield number again after the officers searched the vehicle. PO Valentin did not reply to this request. Later, when § 87(2)(b) had re-entered his vehicle and called 911, he told Sgt. Patel that one of the officers had refused to provide his name and shield number. Sgt. Patel volunteered that he could provide his own name to § 87(2)(b) and he told § 87(2)(b) his name and shield number. Finally, when PO Valentin approached the vehicle to hand § 87(2)(b) the summonses, § 87(2)(b) told PO Valentin, “I need your name.” PO Valentin replied, “It’s on the ticket.”

§ 87(2)(b) provided photos of the summonses, which show that PO Valentin did not print his name legibly on either one (BR04). The summonses do not contain a section for an officer to list his or her shield number.

At no point in the 911 call recording does § 87(2)(b) mention that an officer refused to provide his name or shield number.

PO Valentin denied that § 87(2)(b) ever requested his name or shield number before exiting the vehicle, and he denied that § 87(2)(b) requested the information once he was out of the vehicle. He confirmed that he personally brought the summonses to § 87(2)(b) at the conclusion of the incident, and he confirmed that § 87(2)(b) requested his name and shield number at that point. PO Valentin recounted, “Which I explained to him, and also told him that it was on the summons that he was receiving.” PO Valentin confirmed that he explicitly stated his name and shield number to § 87(2)(b) in addition to telling him that the information could be found on the summonses. PO Valentin viewed the photographs of the summonses and acknowledged that his signature was not legible.

PO McGrath never heard § 87(2)(b) ask PO Valentin for his name or shield number. PO Feeley similarly denied hearing § 87(2)(b) make the request, either when he was still in his vehicle or after officers finished searching the vehicle. He could not recall who gave the summonses to § 87(2)(b) and he had no recollection of § 87(2)(b) again requesting PO Valentin’s name and shield number at that point. PO Feeley did not recall hearing PO Valentin state his name or shield number aloud.

Sgt. Patel could not recall which officer handed the summonses to § 87(2)(b) but he recalled that he was present at § 87(2)(b)’s vehicle when the summonses were presented to § 87(2)(b). He denied hearing any conversation between § 87(2)(b) and the officer who handed him the summonses, denied hearing § 87(2)(b) request that officer’s name, and denied hearing § 87(2)(b) ever request any officer’s name or shield number. When he was told that § 87(2)(b) had alleged

that the officer who handed him the summonses told him his name and shield number were “on the ticket,” Sgt. Patel denied hearing such an exchange. Sgt. Patel denied hearing PO Valentin or any other officer ever state his name or shield number aloud to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

- **Allegation (F) Discourtesy: Police Officer Krystopher Valentin acted discourteously toward**

§ 87(2)(b)

In his online complaint, § 87(2)(b) wrote that he had his phone in his hand when he requested a shield number, as he intended to write down the information and “record” the incident, and that both of his phones were then taken from him. In his phone statement, he explained that he carries two cellphones while working. He typically keeps one phone loose and has the other strapped down to this shoulder by his seatbelt. When § 87(2)(b) told PO Valentin that he would need to provide his identifying information if he wanted to search the car, he took out one of the cellphones to write down the information. He was holding both phones in his hands at this point. An officer took one of the phones from him, and another officer struck his hand, causing him to drop the second phone onto the driver’s seat. § 87(2)(b) did not specify which officer struck his hand. PO Valentin then grabbed § 87(2)(b)’s hand and pulled him out of the vehicle.

In his in-person statement, § 87(2)(b) explained that he keeps his personal cellphone on his shoulder beneath his collar so he can talk in speakerphone while he drives. He keeps his work cellphone loose or in his pocket. When he asked PO Valentin’s for his name and shield number, § 87(2)(b) pulled out his work phone so he could type the information. He held the phone in his right hand. He did not hold the phone up as if he intended to photograph or film PO Valentin. PO Valentin never told him to put his phone away. § 87(2)(b) could not recall if PO Valentin said anything at all about the phone. Within 15 seconds, PO Valentin struck § 87(2)(b)’s hand, knocking the phone to the floor of the vehicle. PO Valentin then immediately grabbed § 87(2)(b)’s hand and pulled him from the vehicle. The work phone remained on the floor of the vehicle, while § 87(2)(b) held his personal phone in his hand upon exiting the vehicle. PO Feeley then took § 87(2)(b)’s personal phone from him.

As previously noted, § 87(2)(b) claimed that PO Valentin had been speaking to him through the open driver’s door. He also denied that PO Valentin ever instructed him to exit the vehicle.

PO Valentin denied that he struck § 87(2)(b)’s hand. He denied that § 87(2)(b) was ever holding a cellphone in his hand while he spoke to him, and he insisted that he spoke to § 87(2)(b) throw the lowered driver’s window. He also denied seeing a cellphone stowed in any manner at § 87(2)(b)’s shoulder. PO Valentin denied that he physically removed § 87(2)(b) from the vehicle. He claimed that he simply instructed § 87(2)(b) to exit, and that § 87(2)(b) complied.

As will be discussed in greater depth in the following Allegation sections, PO Valentin recounted that he found a cellphone on § 87(2)(b)’s person when he frisked him. The phone was in a pocket of § 87(2)(b)’s jacket. He removed the phone from § 87(2)(b)’s pocket and placed it atop the vehicle. PO Valentin denied that he found a second cellphone on § 87(2)(b)’s person, and he did not recall ever seeing a second cellphone during the incident.

PO McGrath did not recall seeing § 87(2)(b) open the driver’s door of his vehicle before the officers approached. He watched § 87(2)(b) from the front passenger window as he spoke to PO

Valentin. He did not recall ever seeing § 87(2)(b) holding a phone in his hands. He denied seeing PO Valentin knock a phone from § 87(2)(b)'s hand. PO McGrath recounted that § 87(2)(b) exited the vehicle on his own; he denied that PO Valentin pulled § 87(2)(b) from the vehicle.

As previously noted, PO Feeley stood at the rear driver's window during the initial approach. He was not paying attention to § 87(2)(b) until he heard PO Valentin instruct § 87(2)(b) to exit the vehicle. He could not recall if the driver's door was open while PO Valentin spoke to § 87(2)(b) but he thought the door was closed at the beginning of the conversation. He denied seeing PO Valentin knock § 87(2)(b)'s phone from his hand. PO Feeley recalled hearing PO Valentin instruct § 87(2)(b) to exit the vehicle multiple times. PO Feeley could not recall if § 87(2)(b) exited voluntarily, or if PO Valentin pulled him from the vehicle. PO Feeley walked § 87(2)(b) to the rear of the vehicle after he exited, and he recalled that § 87(2)(b) had a cellphone with him at this point. PO Feeley denied that he took the cellphone from § 87(2)(b). PO Feeley claimed that § 87(2)(b) called 911 while standing outside his vehicle.

§ 87(2)(b), § 87(2)(g)

- **Allegation (G) Abuse of Authority: Police Officer Krystopher Valentin frisked § 87(2)(b)**

Allegation (H) Abuse of Authority: Police Officer Krystopher Valentin searched § 87(2)(b)

§ 87(2)(b) alleged that, after PO Valentin removed him from the vehicle, PO Valentin held his right hand behind his back so that he was facing his vehicle. PO McGrath came around from the passenger side of the vehicle, ran his fingers around the inside of § 87(2)(b)'s waistline, and put his hands inside § 87(2)(b)'s front pants pockets. § 87(2)(b) could not recall how he was dressed at the time, but he knew that he did not have anything in his pockets. He did not think he was wearing a jacket at the time. He also recounted that his wallet was inside the vehicle's center console.

PO Valentin admitted that he frisked and searched § 87(2)(b) after removing him from the vehicle. He recounted that he smelled an odor of burnt marijuana as soon as he approached § 87(2)(b)'s lowered driver's window. He did not see any smoke. PO Valentin claimed that § 87(2)(b) had an "aggressive demeanor," by which he meant that § 87(2)(b) occasionally raised his voice and was upset about being stopped. § 87(2)(b) asked why he had been stopped, and PO Valentin told him that he had failed to signal and had an inoperative brake light. PO Valentin asked if there was any marijuana in the vehicle, and § 87(2)(b) denied that there was.

§ 87(2)(b) provided his license upon request. However, he then kept his left hand inside his jacket pocket, and he kept reaching toward the center console with his right hand. PO Valentin described how § 87(2)(b) was reaching down along the right of the driver's seat, such that his right hand was entirely disappearing from view. PO Valentin told § 87(2)(b) to show his hands, and § 87(2)(b) ignored him. PO Valentin told him to show his hands again, but § 87(2)(b) continued to ignore him. PO Valentin was "starting to get more nervous about the situation," and he began to suspect that § 87(2)(b) might have a weapon. PO Valentin asked § 87(2)(b) if there were any weapons in the vehicle, and § 87(2)(b) replied, "You don't have the right to ask me if I have any weapons in the car." PO Valentin recounted, "I was alarmed for my own safety. The

fact that he told I wasn't right, and he ignored me the first two times, that raised my level of suspicion."

PO Valentin also claimed to have seen two bulges on § 87(2)(b)'s person. One bulge was in § 87(2)(b)'s left pants pocket, and one was in his right jacket pocket. PO Valentin claimed to have been able to see these bulges when § 87(2)(b) was seated in the vehicle.

PO Valentin immediately frisked § 87(2)(b) at the driver's door once he exited the vehicle, because § 87(2)(b) had made suspicious movements with his hands, refused to show his hands, and had the bulges on his person. PO Valentin frisked the bulges along with § 87(2)(b)'s waistband and legs. The bulge in § 87(2)(b)'s right jacket pocket proved to be a cellphone, and the bulge in his left pants pocket was a wallet. PO Valentin removed the phone and wallet and placed them atop the vehicle.

As will be described in greater detail later, PO Valentin searched in the vehicle for the source of the marijuana odor. He recounted finding a quantity of ash in the ashtray located on the portion of the center console nearest to the dashboard. The ash was black and gray, and it had paper remnants and bits of green material in it. There were no cigarette butts in the ash. PO Valentin never questioned § 87(2)(b) regarding the ash.

PO Valentin denied that any other officer ever frisked or searched § 87(2)(b). PO McGrath and PO Feeley both denied that they ever frisked or searched § 87(2)(b).

PO McGrath also smelled an odor of marijuana when he reached the front passenger window. He could not recall if the window was raised or lowered at the time. PO McGrath watched § 87(2)(b) to ensure that he did not have any weapons and as a basic officer safety precaution. PO McGrath did not recall ever suspecting that § 87(2)(b) had a weapon, and he could not recall anything in particular which occurred during the incident which led him to suspect that § 87(2)(b) might be armed. He could not hear § 87(2)(b)'s conversation with PO Valentin, but he described § 87(2)(b) as "irate" based upon his body language and facial expressions. He could not recall any specific movements made by § 87(2)(b) which led him to believe that § 87(2)(b) was angry. He could not tell if § 87(2)(b) was raising his voice.

PO McGrath did not recall seeing § 87(2)(b) reach toward the center console, and he did not recall § 87(2)(b) refusing to remove his hands from his pockets. He could not recall if he saw any conspicuous bulges on § 87(2)(b)'s person. PO McGrath did not see if PO Valentin frisked § 87(2)(b) once he exited the vehicle, as PO McGrath remained standing on the passenger side. He did not see PO Valentin place § 87(2)(b)'s personal belongings atop the vehicle. PO McGrath did not know if PO Valentin ever discovered the source of the marijuana odor, and he could not even recall if one of the summonses issued to § 87(2)(b) was for marijuana possession. He never asked § 87(2)(b) about the odor, and never heard § 87(2)(b) make any statements about it.

PO Feeley did not recall smelling an odor of marijuana emanating from § 87(2)(b)'s vehicle. He did not recall either PO Valentin or PO McGrath ever telling him that they smelled such an odor. During the initial approach, PO Feeley's view of § 87(2)(b) was obscured by the driver's seat, and as previously mentioned, PO Feeley claimed not to have been paying attention to § 87(2)(b) until he heard PO Valentin instruct him to exit the vehicle. PO Feeley could not recall if PO Valentin frisked or searched § 87(2)(b) once he was out of the vehicle. He could not recall how § 87(2)(b) was dressed. He did not recall seeing any noticeable bulges on § 87(2)(b)'s person, and did not recall ever suspecting that § 87(2)(b) was armed.

All three officers involved in the stop noted in their memo books only that the stop occurred and that summonses were issued (BR14). None noted that an odor of marijuana was detected, that

§ 87(2)(b) made any furtive movements or had any noticeable bulges on his person, or that § 87(2)(b) was frisked and searched.

As previously mentioned, Sgt. Patel spoke to § 87(2)(b) through the driver's window after arriving on scene. He denied ever smelling an odor of marijuana emanating from § 87(2)(b)'s vehicle. PO Valentin later told Sgt. Patel the reasons why he stopped § 87(2)(b)'s vehicle, but he did not tell Sgt. Patel anything further about what had taken place during the stop. PO Valentin did not tell Sgt. Patel that he had any additional suspicions regarding § 87(2)(b) or his vehicle. Sgt. Patel denied that PO Valentin ever told him that § 87(2)(b) had attempted to exit his vehicle during the stop, or that § 87(2)(b) had refused to follow instructions. When asked if PO Valentin provided this information to him, Sgt. Patel explained, "Actually I didn't even ask him any of those, because I was more concerned with calming § 87(2)(b) down." Similarly, when asked if any officer ever told him that § 87(2)(b)'s vehicle had smelled of marijuana, Sgt. Patel denied it but also said, "As I said, I didn't try to inquire." PO Valentin never told Sgt. Patel that he had searched § 87(2)(b)'s vehicle for marijuana.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

The odor of marijuana emanating from a vehicle provides officers with probable cause to search the vehicle's occupants and its passenger compartment. People v. Singleton, 193 A.D.3d 208 (1st Dept. 2016) People v. Cuffie, 109 A.D.3d 1200 (4th Dept. 2013) (BR15).

§ 87(2)(b), § 87(2)(g)

- **Allegation (I) Abuse of Authority: Police Officer Craig McGrath searched § 87(2)(b)**

As previously noted, § 87(2)(b) alleged that PO Valentin held him while PO McGrath searched his pockets. PO McGrath denied that he even came to the driver's side of the vehicle at this point in the incident, and PO Valentin admitted that he was the officer who frisked and searched § 87(2)(b) § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

- **Allegation (J) Abuse of Authority: Police Officer Krystopher Valentin searched the vehicle in which § 87(2)(b) was an occupant.**

Allegation (K) Abuse of Authority: Police Officer Craig McGrath searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) alleged that both PO Valentin and PO McGrath searched inside his vehicle. In his phone statement, he said that he “didn’t even look” at the officers while they were searching, but he knew they searched in both the front and back of the car. He estimated that the search lasted 5-10 minutes. He later found that his credit card had been removed from his wallet, which was located in the center console. In his in-person statement, § 87(2)(b) specified that he stood at the rear of his vehicle with PO Feeley during the vehicle search. He stood with his back to the trunk, but he turned around occasionally to see what PO Valentin and PO McGrath were doing. He saw PO Valentin enter through the front and rear driver’s side doors. PO McGrath entered through the front passenger door. § 87(2)(b) could not see what the officers did inside the vehicle. He now estimated that the search took no more than five minutes.

As previously noted, PO Valentin admitted that he searched inside the vehicle, and said that he did so in order to find the source of the marijuana odor. He looked in the center console and in the area between the center console and the driver’s seat. He looked beneath the driver’s seat, and entered through the rear driver’s door to get a different view of the area beneath the driver’s seat. PO Valentin recalled that PO McGrath also searched inside the vehicle, but he did not see what PO McGrath did or where he searched. PO Valentin flatly denied that officers removed a credit card from § 87(2)(b)’s wallet in the center console; he claimed to have removed § 87(2)(b)’s wallet from his pants pocket.

PO McGrath denied that he searched inside the vehicle. He identified PO Valentin as the only officer who searched inside the vehicle. He claimed to have stood with § 87(2)(b) at the rear of the vehicle while PO Valentin searched. Similarly, PO Feeley recounted seeing PO Valentin search the vehicle, but denied seeing PO McGrath ever do so. He also said that he was standing with § 87(2)(b) at the rear of the vehicle during the search.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

The odor of marijuana emanating from a vehicle provides officers with probable cause to search the vehicle's occupants and its passenger compartment. People v. Singleton, 193 A.D.3d 208 (1st Dept. 2016) People v. Cuffie, 109 A.D.3d 1200 (4th Dept. 2013) (BR15).

§ 87(2)(b), § 87(2)(g)

• **Allegation (L) Discourtesy: Police Officer Craig McGrath spoke discourteously to § 87(2)(b)**

§ 87(2)(b)

§ 87(2)(b) did not make any verbal discourtesy allegations in his online complaint. In his phone statement, he recounted that PO Valentin approached him after the vehicle search and said, "You scared me." § 87(2)(b) objected that the officers had scared him, and he said, "I will get your ID and we'll see what gonna happen [*sic*]." PO Feeley then said to § 87(2)(b) "We don't give a fuck." § 87(2)(b) repeated the allegation during his in-person statement, but he now alleged that PO McGrath was the officer who said, "We don't give a fuck."

All three officers denied that anyone ever told § 87(2)(b) that he had scared them, and all three denied that anyone made the alleged profane remark.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR16).
- PO Krystopher Valentin has been a member of the NYPD for two years. This is the first CCRB complaint to which he has been a subject. He is a subject in another complaint filed regarding an incident which took place after this incident (CCRB #201802009), in which he was the subject of allegations of Question, Frisk, and Vehicle Search. Those allegations were closed as Alleged Victim Uncooperative (see officer history).
- PO Craig McGrath has been a member of the NYPD for four years and has been a subject in six CCRB complaints and 19 allegations, none of which was substantiated. One of these complaints, comprising nine allegations, is still under investigation (see officer history).
- PO Brian Feeley has been a member of the NYPD for ten years and has been a subject in seven CCRB complaints and 17 allegations, none of which was substantiated. Two of these complaints, comprising ten allegations, are still under investigation (see officer history).

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined the option of mediation.
- As of April 4, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR17).
- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (BR18).

Squad No.: 8

Investigator: _____

Signature _____

Inv. Daniel Giansante _____

Print Title & Name _____

Date _____

Squad Leader: _____

Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____